from Phyllis Schlafly

January 14, 1993

D.C. Statehood is Unconstitutional

On August 22, 1978, I was present when the U.S. Senate by a two-thirds majority passed a proposed amendment to the U.S. Constitution to give Washington, D.C. representation in the Congress and in the election of the President and vice President "as though it were a state." It was an exhilarating evening for the local residents; the final vote was followed by loud cheering and partying.

When the seven-year time limit for this "'D.C. Representation" Amendment expired on August, 22, l985, it died because only 16 states had ratified it while a decisive majority of 34 of the 50 states had defeated it or simply refused to ratify it.

Since this proposal was so soundly rejected by the American people, that should be the end of it. But President-elect Clinton has promised statehood for the District of Columbia, and that would make Jesse Jackson a U.S. Senator.

So the liberal Democrats have decided to go ahead and just pass a law declaring the District of Columbia the 51st State. They rely on Article IV, Section 3, clause 1 of the Constitution, which states: "New states may be admitted by the Congress into this Union."

However, such a procedure would be unconstitutional because it would violate the "District Clause" of our Constitution (Article I, Section 8, clause 17): "Congress sha1l have Power… To exercise exclusive Legislation in all Cases whatsoever over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States."

The Constitution, of course, does not mandate that the seat of our government be along the Potomac River. Congress could choose to move the capital to St. Louis (the approximate population center of our nation) if Missouri ceded a tract of land for that purpose.

However, if Congress ever relinquishes the present territory, it would necessarily revert to Maryland -- since it was given by Maryland for the explicit purpose of serving as our nation's capital. And that would trigger the constitutional provision in Article IV, Section 3, clause l: "no new State shall be formed or erected within the Jurisdiction of any other State… without the Consent of the Legislatures of the States Concerned as well as of the Congress."

Our Constitution's framers decided on a separate and independent federal enclave to serve as the seat of the new government, a territory outside of and independent from every state. It was the majority view of the delegates to the Constitutional Convention of 1787 that Congress should

exercise complete authority over the seat of government and a small area around it so that it would be insulated from undue pressures and interruptions.

This means that the District does not have its own Senators and Congressmen. That decision was not a mistake or oversight on the part of the Founding Fathers, but was an integral part of the original constitutional plan to keep the seat of our Federal Government out of the political process so that it would remain the servant of all the people, and not become our master.

The constitutional impediment to D.C. statehood is not only the clear wording and intent of the original Constitution, but also the 23rd Amendment, which is the 20th century's reaffirmation of the District of Columbia as a unique juridical entity in the American system. The 23rd Amendment allows District residents to vote for President and Vice President just like all other citizens, and even gives them an electoral vote disproportionately larger than all but the smallest states.

Those who are promoting D.C. Statehood are trying to get around the constitutional arguments by just ignoring them and instead making emotional social arguments. The D.C. statehood people argue that District residents are discriminated against because, while they pay taxes like other citizens, they have no representation in the U.S. Senate and only one non-voting delegate in the U.S. House. It is difficult to take this argument seriously because District residents already have far more opportunities to influence members of Congress than citizens of any state.

The District enjoys a preeminent relationship with Congress through a special committee in each House, and the District receives per capita federal aid higher than any state and many times higher than the national average. If the District of Columbia were admitted as a state, it would become an Imperial State, first among equals, whose representatives could lobby daily for bigger and more expensive government, which is the District's only “industry.”

Any attempt to force statehood for Washington, D.C. would be an attempt to frustrate the clear wishes of the American people who ratified the 23rd Amendment in 1951- and rejected the D.C. Representation Amendment in 1978-l985. The notion of making the District a state is no more desirable, and no less unconstitutional, than a decade ago, or two centuries ago. It can only be done by amending the U.S. Constitution.